

Rule 31. Depositions of Witnesses Upon Written Questions**31.01 Serving Questions; Notice**

(a) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (2). The attendance of witnesses may be compelled by the use of subpoena as provided in Rule 45.

(b) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in Rule 26.02(a), if the person to be examined is confined in prison or if, without the written stipulation of the parties, the person to be examined has already been deposed in the case.

(c) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating (1) the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and (2) the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of Rule 30.02(f).

(d) Within 14 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within seven days after being served with cross questions, a party may serve redirect questions upon all other parties. Within seven days after being served with redirect questions, a party may serve recross questions upon all other parties. The court may for cause shown enlarge or shorten the time.

(Amended effective January 1, 1997.)

31.02 Officer to Take Responses and Prepare Record

A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by Rules 30.03, 30.05, and 30.06, to take the testimony of the witness in response to the questions and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the questions received by the officer.

(Amended effective January 1, 1997.)

Advisory Committee Comment - 1996 Amendment

This change conforms the rule to its federal counterpart. The federal rule was amended in 1993 to create a more usable mechanism for exchanging questions and submitting them to the witness. One goal of this change is to make depositions on written questions a more useful discovery device, recognizing that if it can be used effectively it has good potential for reducing the cost of litigation.

The amendment of this rule also serves the goal of facilitating the handling of these depositions by court reporters and others not regularly exposed to Minnesota practice.

31.03 Notice of Filing

When the deposition is received from the officer, the party taking it shall promptly give notice thereof to all other parties.